

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF FEBRUARY 19, 2003**

REGULAR MEETING

9:00 A.M.

FEBRUARY 19, 2003

PRESENT:

COMMISSIONERS:	Gerald W. Smith, Chairman	Richard P. Pearson
	Jim Bagley, Vice Chairman	Bill Postmus
	Paul Biane	A. R. "Tony" Sedano, Alternate
	Bob Colven	Diane Williams
	James V. Curatalo, Alternate	

STAFF:

James M. Roddy, Executive Officer
Kathleen Rollings-McDonald, Deputy Executive Officer
Clark H. Alsop, Legal Counsel
Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS:

Dennis Hansberger, Alternate
Alternate City Member (Vacant)

REGULAR SESSION - CALL TO ORDER - 9:05 A.M.

Chairman Smith calls the regular session of the Local Agency Formation Commission to order.
Commissioner Biane leads the flag salute.

Chairman Smith requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved.
There are none.

APPROVAL OF MINUTES FOR REGULAR MEETING OF JANUARY 15, 2003

Chairman Smith calls for any corrections, additions, or deletions to the minutes. There are none.
Commissioner Postmus moves approval of the minutes as presented, seconded by Commissioner Biane.
Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

CONSENT ITEMS

LAFCO considers the item listed under its consent calendar, which Chairman Smith states is approval of the Executive Officer's Expense Report. Mr. Roddy announces that he has not prepared an expense report as he has no significant reportable expenses to submit at this time.

DISCUSSION ITEMS

**STATUS REPORT ON LAFCO 2911 - SERVICE REVIEW AND SPHERE OF INFLUENCE REVIEW
(REDUCTION) FOR WEST SAN BERNARDINO COUNTY WATER DISTRICT (COYOTE CANYON**

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**SPECIFIC PLAN AREA) AND LAFCO 2912 - WEST SAN BERNARDINO COUNTY WATER DISTRICT
DETACHMENT (COYOTE CANYON SPECIFIC PLAN AREA) - SCHEDULE HEARING FOR APRIL 16, 2003**

LAFCO conducts a public hearing to receive a status report on LAFCO 2911 and 2912, a service review and proposed sphere of influence reduction for, and detachment from, the West San Bernardino County Water District (hereinafter referred to as "WSBCWD" or "the District"). Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual notification was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

(It is noted that Legal Counsel Clark Alsop leaves the hearing as he has a conflict since he is the City Attorney for the City of Fontana, which has conditionally supported this proposed detachment.)

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made part of the record by reference herein. Mr. Roddy reviews the background of this issue, stating that about a year ago, a 325-acre area known as "Coyote Canyon" was annexed to the City of Fontana (hereinafter referred to as "the City"). He says the area is within the boundaries of the WSBCWD and that in the Commission's review of the annexation, there was discussion as to the service capability of the City and the District to serve the Specific Plan approved by the City. He says staff noted during that review that the water issue was complicated due to a number of factors. He says the WSBCWD at that time did not have waterlines in the area to immediately serve the development. He discusses there was a problem of how the delivery of retail water service would be provided. He explains that the WSBCWD, as the retail water provider to the area, is a member agency of the San Bernardino Valley Municipal Water District (hereinafter referred to as "the SBVMWD"), the wholesale water agency, but says that the Coyote Canyon area is within the boundaries of the Metropolitan Water District (hereinafter referred to as "the MWD") and the Inland Empire Utilities Agency (hereinafter referred to as "the IEUA"), which are different wholesale water agencies. Because of that, Mr. Roddy says an agreement between the WSBCWD, SBVMWD, MWD, and IEUA needed to be developed. He says the Commission approved the annexation to the City, with the understanding that the agreement would be reached soon. He says that for a variety of reasons, the four-party agreement was only recently reached, adding that the WSBCWD was slower than originally anticipated in extending a waterline to the area. Mr. Roddy says that because of those delays, the developer proposed the detachment of the Coyote Canyon area from the WSBCWD so that it could receive retail water service from the Fontana Water Company (hereinafter referred to as "the FWC"). He says that prompted a series of studies and proposals and this status report hearing today.

Mr. Roddy says that in November of last year, a hearing was conducted by the Commission to take action on several issues necessary to hear the item when it was ready. Those actions were: (1) approval of retaining Jeffrey Goldfarb of Rutan and Tucker as Special Legal Counsel since Mr. Alsop had a conflict of interest; (2) denial of the applicant's request to waive the filing fees for the sphere of influence reduction because the WSBCWD would not agree to waive the service review for this minor sphere change; and (3) to urge the WSBCWD to complete its service review study as quickly as possible and to schedule a status report on the issue for today. Mr. Roddy says the purpose of today's hearing is not to argue in favor or against detachment, or to discuss specific issues regarding the development, but for all parties to present the progress that has occurred between November and today.

Mr. Roddy says three items that were received too late for the staff report have been presented to the Commission today, copies of which are on file in the LAFCO office and are made a part of the record by reference herein. The first item is a revision to page 4 of the status report from Cotton Bridges Associates, which is attachment 5 to the staff report. The next item is a letter from Gerald Eagans, attorney for the WSBCWD, to Christopher Campbell, attorney for the developers, regarding issues related to the drilling of a test well in the area. The third item is a letter from Mr. Eagans to the Central Valley Fire Protection District regarding the issue of a secondary source of water delivery to the area.

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Mr. Roddy says that the City of Fontana attached conditions to its support for the detachment. He says the City indicated that if the four-party agreement could not be reached, and if the WSBCWD could not provide water service by the end of the year and did not have a secondary water source, then the City would continue to support the detachment application. Mr. Roddy says the proponents informally indicated that if these conditions were met, the application might be withdrawn. He reports that the four-party agreement has been reached and says a copy of the agreement is attached to the staff report. He says there is no signature from the MWD yet but he understands that agency is in the final stages of taking action on the agreement. Next, he says the District has extended an 18" waterline to the site to provide primary water service to the development area and says he understands it is now available for grading purposes and may be available for use of water service delivery to new residential construction in the area. He says the issue of a secondary source of water has not been resolved but says there are two options. The first is that the FWC could agree to an intertie with the District's system. He says the FWC has not yet agreed, nor has it indicated it will agree, to an intertie. He says the second option is that the WSBCWD provide its own secondary source. Mr. Roddy says that the City, as outlined in its letter attached to the staff report, has indicated it would agree to issue certificates of occupancy, provided that the secondary source is available and functioning within one year of the issuance of the first certificate of occupancy, provided that County Fire officials also agree to that. He points out that a letter was passed out to the Commission this morning from the WSBCWD's attorney indicating that County Fire officials have agreed to this one year extension, provided all parties are in agreement.

Mr. Roddy reports that the WSBCWD has retained Cotton Bridges Associates (hereinafter referred to as "CBA") to prepare the service review and he says that attached to the staff report is a report from CBA related to the Coyote Canyon area with respect to the service review requirement. He says representatives from CBA are present today to provide additional information and that the consultants believe the service review report can be completed by late March or early April. Mr. Roddy says the staff recommendation is that the Commission schedule this matter for hearing, adding that it appears that the earliest hearing date would be April 16.

Chairman Smith opens the hearing and calls on those wishing to speak.

Don Cotton of CBA states they anticipate completing and presenting the service review document to LAFCO staff for an administrative review by the middle or end of March, and that it is conceivable the Commission could have the final document in April. Mr. Cotton introduces Jessie Barkley, the manager of this project, and he indicates that the District's General Manager, Assistant General Manager and Legal Counsel are also present. He gives a slide presentation reviewing the status of the WSBCWD's efforts to serve the Coyote Canyon project. Copies of the slides are on file in the LAFCO office and are made a part of the record by their reference herein. He summarizes the schedule of events to date, as follows: In July of 1999, the developers of Coyote Canyon requested a commitment from the District for water service. In October of 2000, the WSBCWD completed a feasibility study looking at two possible ways to provide service to the Coyote Canyon project. The Specific Plan was approved in September, 2001 by the City, and the four-party agreement was signed in November, 2002. In January, 2003, the engineering design and biological assessment for the Duncan Canyon/Sierra Avenue pipeline, to be used as the secondary source of service, was completed and the CEQA clearance is in process. Once the question of the Kangaroo Rat habitat has been dealt with, construction of this second line can proceed. The Lytle Creek Road pipeline, built at a total cost of \$1.2 million, was accepted by the WSBCWD as complete on February 6, 2003, and is ready to serve the Coyote Canyon development. Mr. Cotton notes that in the revision to page 4 of the status report handed out today, this line is referred to as a 12,000 square foot line. and he says it should be 12,000 lineal feet. The Zone 7 pump station update work has been completed. On February 6, 2003, the WSBCWD Board approved a schedule for a test well to be drilled for a secondary source of supply at a cost of \$50,000 to \$100,000. The biological assessment and negotiations with Lytle Creek Development Company for the Zone 7-3 reservoir in the northern area are complete. Regarding a secondary source of connection, the WSBCWD is still attempting to negotiate an intertie with the FWC, but the District hopes that work on the Duncan Canyon waterline will move forward so that the District can provide the full secondary source. In a letter dated January 21, 2003, the State Department of Health Services indicated that it is not a State-

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mandated requirement to have two sources of supply but requested that the second service be available within one year after the first service is in effect. Also, the Central Valley Fire Protection District has submitted a letter agreeing that the second point of connection need not be complete until one year after the certificate of occupancy is issued for the first unit in the Coyote Canyon project.

Commissioner Colven asks whether the test well will be sufficient for the secondary source supply or whether the Duncan Canyon pipeline will still have to go forward. Mr. Cotton says Mr. Araiza will answer that question.

Anthony Araiza, General Manager of the District, says the hole has not been drilled yet because they are waiting for contracts to come back from the well drillers. He says as soon as the contracts are received, they will drill a test well to see if there is water up there. In response to inquiries of Commissioner Sedano, he says if the well is decent, it will take about six months before it is in service. He explains that the CEQA documents for the secondary line have been completed and sent to the State Clearinghouse for review. He says Mr. Long, his Assistant General Manager, is ready to go into consultation with the U.S. Fish & Wildlife Service and that they will do whatever needs to be done to mitigate the issues related to the Kangaroo Rat. Mr. Araiza says the Commission needs to understand that the 18" line that has been completed will service the 650 homes without any problems and that there is only an issue of a secondary source if something happens to the primary line. However, he adds that crews can fix problems in a short period of time. Mr. Araiza says they are in negotiations with the FWC, but says they have not had a chance to finalize anything because of scheduling problems. He says that an intertie with the FWC would be an emergency intertie.

Steve Stewart, the developer of Coyote Canyon and the initiator of the detachment, says the WSBCWD has made a great deal of progress to provide the primary water service for the project. Mr. Stewart discusses his concern that there is no secondary source available at the moment and he says there are no constructive negotiations with the FWC. He points out that the General Manager of the FWC provided testimony in November that even if the FWC were able to provide the secondary source, it could only provide for about 100 homes, not for all 650 homes in the development. Regarding the other two options for the secondary source, Mr. Stewart says he is willing to provide a well site on the property, but he says it is not known whether it will produce enough water. He says they could bring water from the other side of the freeway through the critical habitat area, but he notes that the Section 7 consultation with the U.S. Fish and Wildlife Service can be a time-consuming process. He reminds the Commission that discussions were initiated with the District in 1999, and he says it took until fall of last year before they began construction of the primary pipeline. He says the City has submitted a letter, and that one is expected from the Central Valley Fire Protection District, indicating they will allow one year from the issuance of the first certificate of occupancy for the WSBCWD to complete arrangements for the secondary source. Mr. Stewart says if the District cannot provide the secondary source within that timeframe, no more certificates of occupancy or building permits will be issued and his project will be "dead in the water". He says this is an unacceptable risk to the developers and the lenders. He says that although the District is working toward having a secondary source lined up, it cannot guarantee that one will be available within the necessary timeframes. For that reason, Mr. Stewart asks that the hearing be scheduled as soon as possible.

In response to inquiry from Commissioner Sedano, Mr. Stewart says that the FWC indicated that based on the facilities it has in the area, it could only provide an intertie for about 100 houses. However, he says the FWC indicated it that if it was the primary purveyor for the project, it could develop additional infrastructure in a timely fashion to provide primary and second water to the area within the development timeframe. Commissioner Sedano says he sympathizes with Mr. Stewart and says he cannot understand why this process has taken so long. He says there are no winners now, and says it would be nice if everyone could get together and say these things must be completed by the time this comes back to the Commission. Mr. Stewart comments that the problem is that although the District has made diligent efforts, there are no guarantees it can provide that make his lenders comfortable.

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Commissioner Biane asks whether the twelve-month period in which the District must provide a secondary source of water could be extended by the City and the Central Valley Fire Protection District, which would give Mr. Stewart a greater ability to build out the project. Mr. Stewart responds that he has not negotiated with the City or the Fire District, who have offered the District this twelve-month grace period. He says when that date rolls around, there will be no more certificates of occupancy or building permits issued and says he does not know what the potential for extending that deadline is. Commissioner Biane comments that he does not know whether an agreement could be crafted to provide an extension if progress has been made, such as if the pipeline is under construction or the required permits are in hand, which he says would give Mr. Stewart and the lenders greater comfort with moving forward. Mr. Stewart says that Cecilia Lopez-Henderson from the City is present today, but he says to his knowledge, the timeframe is twelve months.

In response to inquiry of Commissioner Colven, Mr. Stewart discusses that the FWC has water "stubbed" to the property near the northwest corner where Cherry Avenue enters the property from Hunter's Ridge, and also has water available to the development in the south on Duncan Canyon Road for use as a secondary source of supply. He says the FWC indicated that if it was the water purveyor for the area, it would have the ability to get water but would have to construct additional storage capacity to handle water for the entire project, which it could do quickly. Mr. Stewart says he is comfortable that the FWC could provide both primary and secondary sources of water service during the development timeframe.

Commissioner Pearson discusses that with no firm positions from either the District or the FWC, Mr. Stewart is "between a rock and a hard place". He questions whether an April hearing will be soon enough to meet the timelines of the investors and the commitments that have been made. Mr. Stewart responds that in November they hoped to see this resolved and says an April hearing "doesn't make my heart sing". He notes they are negotiating with home builders to purchase the property and he says the builders are concerned where the water will come from and that he has to tell them he does not know. He says that although the WSBCWD has made considerable efforts lately, they are not there yet and he hopes the Commission will keep the process on track.

Commissioner Bagley states that the only option is to schedule the hearing, instead of wasting people's time today, because all these issues will come up again at the hearing.

Regarding the Fire District's agreement that the second connection could be put off until one year after the certificate of occupancy is issued for the first unit, Gerald Eagans, attorney for the WSBCWD, states that he, Mr. Araiza, and Mr. Long met with City staff last week and their opinion was that mass grading on the property would not be able to begin for six months, at the best. Mr. Eagans says that after the mass grading, they will start the infrastructure, on and off-site improvements, and then build houses after that. He points out that they are talking about two years before the WSBCWD has to have a second point of connection, but he adds he thinks the Fire District probably would be willing to give an extension.

In response to inquiry of Commissioner Sedano, Mr. Araiza states it will take about 90 days to complete the second line, noting that the construction has never been the question. He says the problem has been the Kangaroo Rat habitat, but he says the District will do whatever it takes to mitigate that concern in the Section 7 consultation. He reiterates that the District can service the development now; that it is in the District's service area and they have always planned to serve it. Mr. Araiza says that two years ago when Mr. Stewart came to the District, it was a money issue that held things up. He explains that Mr. Stewart's property is at the far edge of the District; that there was no service close to his area; and that the District asked him to put up facility fees to extend pipelines, because the District did not want its ratepayers to pay to develop that property. He says Mr. Stewart did not want to put up that money but wanted to wait until the District moved facilities into the area. He says they have moved facilities into that area and are now prepared to serve the development.

Pam Steele of Hogle-Ireland, consultants working with the Coyote Canyon developers, states they have been meeting with City engineering staff two times a month and that the plans for mass grading have been in review for almost a year. She reports that the latest indication from City engineering technical staff is that

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they are about six weeks from obtaining a mass grading permit, and that included in that will be lot grading for the first two or three phases. Ms. Steele comments that the City staff that met with the WSBCWD was thinking about the "big picture". She notes there are some agencies they are dealing with in a couple of areas which will delay grading for specific lots for probably about six months, but she says they are ready to start with grading the first section in six weeks.

Cecilia Lopez-Henderson, Senior Administrative Analyst for the City, says she concurs with Mr. Eagans' comments. Ms. Henderson says Ms. Steele and Mr. Stewart have been meeting with engineering staff; but she says her boss, Community Development Director Frank Schuma, confirmed last week that mass grading is six months away. She says the City is looking forward to a hearing on this issue.

Chairman Smith asks whether there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Mr. Roddy discusses his concerns about scheduling this for an April 16 hearing, pointing out that staff will not receive the service review report for administrative review until late March. He says the legal ads and landowner/voter notices for the April hearing must be prepared around March 19 and that staff will be mailing out and publishing notices related to something that has not even been reviewed yet. He adds that the staff report, including attachments, for the April 16 hearing will be mailed out April 9, so it must be completed by April 4. He says he is not comfortable advertising and sending out about 1,000 notices and alerting landowners and voters about the hearing, when there is a question whether the service review report will be completed in time for an April 16 hearing. He says if the Commission wants to schedule this for an April hearing, it must do so with the understanding that the hearing will possibly have to be continued. Mr. Roddy says he appreciates the concern about an expeditious decision on this issue, but he discusses that there is not just one issue that has caused this three-year delay in the process. He points out that there were environmental studies by the City, as well as lengthy specific plan and annexation processes by the City.

Chairman Smith comments that a May hearing would not hold up construction since it has been indicated that grading is six months away. Mr. Roddy responds that the City and the District's Legal Counsel have indicated that grading is six months away, but he says the consultant for the developer has indicated it is six weeks away. He says he does not know which estimate is correct.

Commissioner Bagley asks if they schedule the hearing for April and then it has to be continued for 30 days, whether that is the worst case scenario. Mr. Roddy responds that is the worst case scenario, but he adds that there will be many people from the surrounding area who will receive notice and will be wondering what's going on, expressing interest, concern, or confusion. Commissioner Bagley says the onus is on the District to see that a complete report is provided to staff by April 4. He says a lot of time has been spent today in unnecessary dialogue. Mr. Roddy says staff will hope the report is ready for an April hearing, but he says if it is not, he will prepare a one page staff report to continue the matter.

Commissioner Bagley moves to schedule the hearing on the service review, sphere of influence reduction, and detachment from the WSBCWD for April 16, 2003, with the condition that if it is not ready for hearing, it will be continued. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

(It is noted that Mr. Alsop returns to the hearing at approximately 10:15 a.m.)

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATIONS PREPARED BY CITY OF MONTCLAIR FOR CASE NO. 2002-38, ANNEXATION #21, AND CASE NO. 2002-45, ANNEXATION #21, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2913; AND (2) LAFCO 2913 - REORGANIZATION TO INCLUDE CITY OF MONTCLAIR ANNEXATION NO. 21 AND DETACHMENT FROM MONTE VISTA FIRE PROTECTION DISTRICT - APPROVE STAFF RECOMMENDATION

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LAFCO conducts a public hearing to consider a proposal submitted by the City of Montclair (hereinafter referred to as "the City") to annex approximately 15 acres to the City, with a concurrent detachment from the Monte Vista Fire Protection District (hereinafter referred to as "the Fire District"). The reorganization area is located at the southwest corner of the intersection of Mission Boulevard and Fremont Avenue and is contiguous on its eastern side to the current boundaries of the City. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual notification was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Mr. Roddy discusses the existing land uses within and surrounding the area, which are outlined in the staff report. He reports that the initial proposal was limited to an L-shaped parcel of about nine acres and says the initial environmental review addressed those nine acres, rezoning the area for general commercial uses along Mission Boulevard, with the balance of the area zoned for single-family residential uses. He says that LAFCO staff was concerned that the annexation of that L-shaped parcel would create an unincorporated corridor of land between the current City boundaries and the initial annexation area. He explains that staff asked the City to evaluate whether the balance of that area, about five acres on the westerly side of Fremont Avenue, could be included in this annexation. He reports that the City worked with the landowners and prepared an updated Plan for Service, rezoning and environmental review to encompass the additional five acres. Mr. Roddy says the City indicated that at the Planning Commission level, concern was expressed by the landowners who were added into the proposal; but he says those concerns appear to have dissipated by the conclusion of the City Council process. He says the City's expanded application now consists of approximately 15 acres and that the City submitted two environmental reviews for the expanded application. Mr. Roddy notes that the highlights of the City's Plan for Service are outlined in the staff report and he says City staff is present today.

Mr. Roddy says the findings required by State law and Commission policy are outlined in the staff report and says the staff recommendation is that the Commission: (1) certify that it has reviewed and considered the City's environmental assessments for this proposal; take those actions identified in the staff report, including directing the Clerk to file Notices of Determination within five working days; (2) approve LAFCO 2913; and (3) adopt LAFCO Resolution No. 2766 setting forth the Commission's findings, determinations and conditions of approval.

(It is noted that Commissioner Postmus leaves the hearing at 10:25 a.m.)

Commissioner Colven asks whether staff heard anything from the Fire District. Mr. Roddy responds that Fire District staff has indicated that this is an appropriate transfer of authority. He explains that the County has transferred fire revenues derived in the area to the City for decades in return for the City providing fire protection service.

Commissioner Sedano compliments the City on its application and he recommends that the Commission approve the annexation.

Chairman Smith opens the hearing and asks if there is anyone present wishing to speak on this item.

Steve Lustro, Montclair City Planner, thanks LAFCO staff for the help offered to him and for the comprehensive and accurate staff report and presentation. Mr. Lustro says this is a logical annexation to the City and says they appreciate LAFCO staff's suggestion to include the additional five acres. He notes that the City's rezoning took the County's current zoning into account and says the City is proposing the same designations as the County.

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Chairman Smiths asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Bagley moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Smith calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Postmus.

**REVIEW OF FAIR POLITICAL PRACTICES COMMISSION REGULATIONS REGARDING
COMMISSIONER CONFLICT OF INTEREST**

LAFCO conducts a hearing to review Fair Political Practices Commission (hereinafter referred to as "FPPC") regulations regarding Commissioner conflict of interest. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation.

Executive Officer James Roddy presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Roddy says there have been some revisions to the FPPC regulations and he says there can be some confusion from time to time as to what a conflict of interest is. He says Legal Counsel Clark Alsop will summarize those provisions and review Commissioner disqualification requirements related to contributions of \$250 or more in the past twelve months.

Mr. Alsop states that there is a distinction between incompatibility of office and conflict of interest. He says that years ago, Commissioners who were city or district members could not participate in discussions or vote on matters affecting their city or district, but he notes that County Commissioners were never prohibited from voting on matters affecting the County. He says those prohibitions were removed years ago and the fact that a Commissioner is a member of a city or district does not prevent him from voting on a matter affecting his city or district.

Mr. Alsop says that today they are talking about a financial conflict under the Political Reform Act and whether a Commissioner has a monetary gain or loss because of something that is being considered. He says this Commission has a Conflict of Interest Code and that each Commissioner must file a Statement of Economic Interests every year. He discusses the "Outline of Conflict of Interest Laws" which has been handed out, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Mr. Alsop says that the Commissioners, with the exception of the Public Members, are appointed to this Commission, even though they are elected to their city, district, or County offices. He says campaign contributions count as income for purposes of the Commission. He explains that is where the \$250 disqualification comes in and says if anyone receives income, including campaign contributions, he must disqualify himself. He notes that the gift limit went up from \$320 to \$340, with a limit of no more than \$50 per gift, with some exceptions.

Mr. Alsop says the issue of what to do when someone must disqualify himself comes up. He says that in 2001 and prior, he was supposed to say he had a conflict, say what it was, and not participate. He says that last year the FPPC decided it did not have the authority to require that, so last year the Commissioners did not have to explain what their conflict was. He reports that the statute now has changed and that a Commissioner must say what the conflict is and then leave the room. He says a Commissioner should say something like "I have a financial interest in XYZ operation, which is the subject of this action", and then leave the room.

Commissioner Curatalo asks at what point an Alternate would announce he has a conflict, since he is not intended to vote on an issue. Mr. Alsop responds that if someone has a financial conflict, that not only means that he cannot vote, but also that he cannot participate in the discussion. He says to be safe, it would be better to leave, since facial gestures to voting members are considered participation. He suggests that if someone thinks they have a conflict, they should ask him or their agency's attorney ahead of time.

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He reiterates that if someone has a question as to whether he has a conflict, and it is not necessary that he vote to maintain a quorum, it is safer not to participate.

(It is noted that Commissioner Biane leaves the hearing at 10:35 a.m.)

PENDING LEGISLATION

Executive Officer James Roddy presents the staff report on legislation, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Mr. Roddy indicates that attached to the staff report are various legislative proposals that CALAFCO may wish to sponsor during 2003, as well as a legislative proposal that will be submitted by the California League of Cities pertaining to the conduct of municipal service reviews.

Chairman Smith asks whether anything has been said about regional LAFCO meetings. Mr. Roddy says there will be discussions in the next few weeks regarding regional meeting sites and schedules.

EXECUTIVE OFFICER'S ORAL REPORT

Mr. Roddy reports that The Redlands Association submitted a request for reconsideration of the Commission's decision in January related to the Donut Hole area, which he says will be on the March 19 agenda. He says they allege that action by the County to create a Community Facilities District to, among other things, provide long-range financial resources for water and sewer infrastructure in the Donut Hole proves that water and sewer services did not preexist the statutory threshold of January 1, 2001. He reports that a status report on the City of Chino Annexation of Subarea 2 will be on the March agenda. He explains that the Certificate of Filing was issued last year and says that in order to comply with the law requiring that a hearing be held within 90 days of issuing that Certificate, in March staff will update the Commission on the status of the proposal and then suggest a 90-day continuance. He asks which Commissioners have access to a computer and would like to receive two disks containing the environmental review information for the Chino proposal, and which Commissioners would like to receive hard copies of the two large documents related to the environmental review. Commissioners Bagley, Smith, Williams and Curatalo request disks; Commissioners Colven, Pearson and Sedano request copies of the documents.

Mr. Roddy reports that in March the Commission will review the Audit Report for the fiscal year ending June, 2002, as well as a request by Riverside LAFCO to transfer principal county authority to them for an annexation to the Yucaipa Valley Water District of lands in Riverside and San Bernardino Counties. He explains that San Bernardino LAFCO is the principal county for the Water District because the bulk of its land area and assessed value is in San Bernardino County. He notes that he will not object to the transfer, if the District does not object. Commissioner Pearson comments that would give Riverside LAFCO authority to make decisions in this County. He says it seems this is a proposal that would normally be under this Commission's purview and responsibility and he asks why they should give that up. Mr. Roddy says the process will be more streamlined if it goes through Riverside LAFCO and that Riverside LAFCO's Executive Officer will be at the hearing in March to discuss his request. He says this proposal is part of a much larger issue involving a division of the Oak Valley subdivision among Calimesa and Beaumont. Mr. Alsop points out that the Commission would be transferring authority for this action only and is not giving up its review for other District proposals.

Mr. Roddy reports that the April 16 hearing will be busy and will hopefully include the detachment of the Coyote Canyon area from the West San Bernardino County Water District, as well as the preliminary budget review and possibly some service reviews.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF FEBRUARY 19, 2003**

COMMENTS FROM THE PUBLIC

Chairman Smith calls for comments from the public. There are none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, ON MOTION BY COMMISSIONER WILLIAMS, SECONDED BY COMMISSIONER PEARSON, THE HEARING IS ADJOURNED AT 10:50 A.M.

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

GERALD W. SMITH, Chairman